IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO. 112 OF 2004

Sou.Jyotsna Mahadeo Pol. ... Applicant.

Versus.

Mahadeo Dattatray Pol. ... Respondent.

Ms.L.H.Belindge for the Applicant.

Shri Ashok Tejane for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 15th March, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The Applicant is the wife and the Respondent is the husband in this Application under section 24 of the Code of Civil Procedure, 1908.

2. The Respondent-husband has filed a Petition under the Hindu Marriage Act 1955 which is pending in the Court of the Civil Judge, Senior Division at Barshi. The prayer in the said petition filed by the Respondent is for divorce.

3. The ground of transfer pleaded in the application is that the Applicant-wife is residing at Mumbai and it is very difficult for her to undertake travelling upto Barshi for attending to the proceedings of the petition filed by the Respondent. She has no place of residence at Barshi or at Solapur. It is stated that it is very

inconvenient for the Applicant to attend the proceedings at Barshi.

4. The Respondent has strongly opposed this petition by filing affidavit-in-reply. It is contended that the Applicant has suppressed the fact that the Court at Barshi has passed an order directing the Applicant to submit for medical examination at the Civil Hospital at Solapur and that an order directing payment of interim maintenance has been passed.

5. I have considered the rival submissions. The Applicant is the resident of Mumbai where she is residing with her parents. She has to undertake journey for about eight hours for reaching the place where petition filed by the Respondent is pending. She has no facility of residential accommodation either at Barshi or at Solapur. It is therefore very inconvenient for the Applicant-wife to attend the proceedings in the Court at Barshi.

6. So far as the order passed by the Court at Barshi on 2nd August 2004 is concerned, the same has no relevance with the question of transfer. Even after petition is transferred to the Family Court at Mumbai, all interim orders will continue to operate.

7. Hence the following order is passed:

(i) Misc.Civil Application is allowed. Marriage Petition No.40 of 2003 pending before the Court of the Civil Judge, Senior Division, Barshi, Dist.Solapur, is transferred to the Family Court at Bandra, Mumbai.

(ii) After transfer of the proceedings, the Family Court will issue notice to both the parties intimating the date of hearing of the matter.

(iii) Both the parties and the concerned Courts to act on an authenticated copy of this order.

Judge.